

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.1156/2010 & MP.No.2/2010

A.Ramu

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Petitioner

Versus

The Executive Officer
Sriperumbudur Town Panchayat
Sriperumbudur.

..

Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the respondent in Na.Ka.No.358/2009 and quash the proceedings dated 08.01.2010 issued in Daily Thanthi dated 14.01.2010 herein insofar as it relates to present shop No.15 [earlier shop No.19] situate in new Bus Stand Building, Sriperumbudur Town and Taluk and further direct the respondent to allot the said shop No.15 [earlier shop NO.19] situate in New Bus stand Building, Sriperumbudur Town and Taluk to the petitioner herein.

For Petitioner : Mr.L.Muralikrishnan

For Respondent : Mr.J.Raja Kalifulla, Senior Counsel

ORDER

Heard Mr.L.Muralikrishnan, learned counsel for the petitioner and Mr.Raja Kalifulla, learned Senior counsel appearing for the respondent and perused the material available on record.

2.The petitioner has filed this writ petition challenging the order of the respondent dated 08.01.2010, which is the proceedings issued by the respondent/Town Panchayat proposing to bring for auction all the shops situate in the New Bus Stand building, Sriperumbudur.

3.It appears that the petitioner was allotted a shop in the old building during 1990 and a lease deed was executed in favour of the petitioner. The petitioner is said to have been carrying on business in the saie premises. The respondent/Town Panchayat took a decision

to demolish the old building and to construct new shops. According to the petitioner, the Town Panchayat has to give priority to the original occupants while constructing the new premises. Since the petitioner's applicable form was not received by the respondent/Town Panchayat prior to the issuance of the impugned tender notification, the petitioner approached this Court and filed a petition and it appears that an order of status quo was granted, as a result of which, the shop is remained locked since then. In respect of the other shops, auction has been conducted and has been handed over to the successful bidders. One other person like that of the writ petitioner herein, filed WP.No.1375/2010 and the said writ petition was dismissed as infructuous on 18.07.2013.

4.Learned counsel for the petitioner would submit that in terms of G.O.Ms.No.92 dated 03.07.2007, more particularly, clause 4[iii], the petitioner is entitled to priority. It is true that initially there was a Government order granting priority to the occupants of the shops to be followed by the local body besides to demolish and reconstruct. Subsequently, the Government Order was cancelled and resented and as on date, the respondent/Town Panchayat took a decision to demolish shops which were in occupation of the petitioner and others. There was no Government Order in vogue contemplating any priority. Clause 4[iii] of G.O.Ms.No.92 dated 03.07.2007 deals with the extension of lease for a period of 9 years at enhanced rate in respect of persons who were granted lease of shop. Admittedly, the petitioner is yet to be granted lease of the shop and the petitioner's case itself is that he should be granted priority. Since there is no such provision either by way of a rule or by way of a Government Order, the question of insisting on priority does not arise. In such circumstances, the petitioner cannot have any grievance as against the impugned tender notification.

5.As regards the plea raised by the petitioner that he has not been allowed to participate in the tender or submit his form, the learned Senior Counsel appearing for the respondent submitted that the petitioner is in arrears of tax and unless and until the petitioner clears the same, he is not eligible to participate in the tender-cum-auction. Learned counsel for the petitioner disputes the contention raised by the learned senior counsel for the respondent/Town Panchayat as regards the arrears of tax.

6.In the light of the above, while dismissing the writ petition and upholding the tender notification dated 08.01.2010, liberty is given to the petitioner to work out his remedy in the manner known to law with regard to the dispute regarding the arrears of tax.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

AP

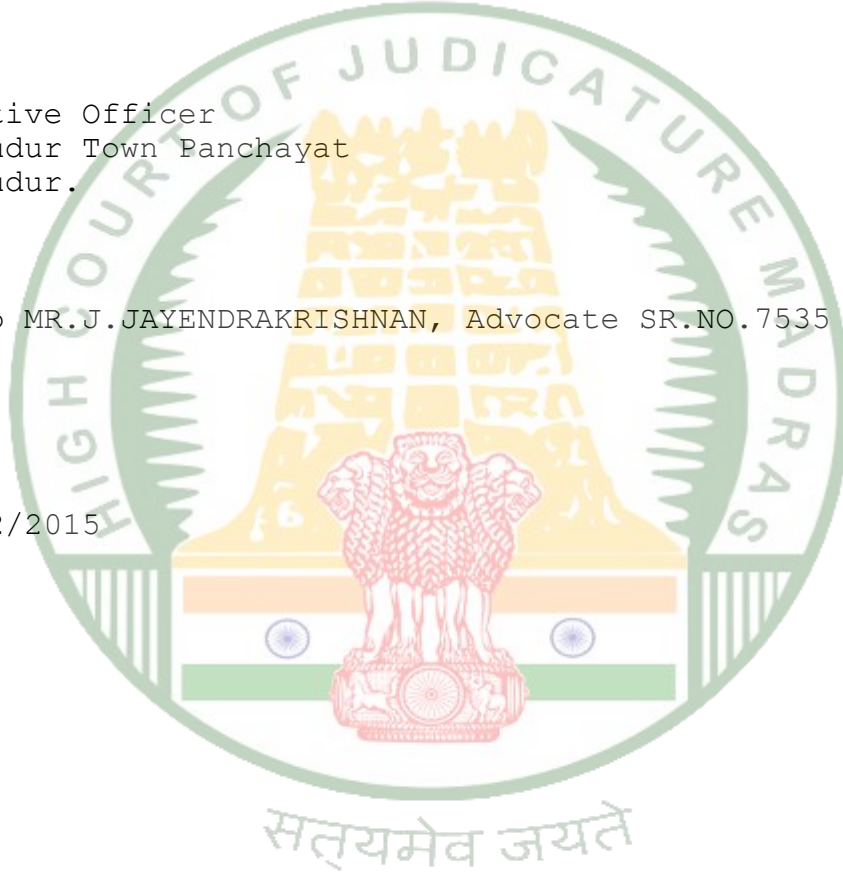
To

The Executive Officer
Sriperumbudur Town Panchayat
Sriperumbudur.

+1 CC to MR.J.JAYENDRAKRISHNAN, Advocate SR.NO.7535

WP.No.1156/2010

SS1(CO)
DRL :21/02/2015



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